

Notice of Allowability

Application No.

10/644,265

Examiner

James H. Alstrum-Acevedo

Applicant(s)

WEERS ET AL.

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6/1/07.
2. ☒ The allowed claim(s) is/are 1-7, 9-29 (now 1-28) and 133-138, 140-144, and 146-207 (now 29-101).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 2/27/07
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other


JOHANN RICHTER
SUPERVISORY PATENT EXAMINER
GROUP 1200

Terminal Disclaimers

The terminal disclaimers filed on June 1, 2007 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of (1) U.S. Patent No. 7,205,343 (formerly "allowed copending application number 09/999,071"); (2) U.S. Patent No. 6,630,169; (3) U.S. Patent No. 6,309,623; and (4) U.S. Patent No. 6,638,495 have been reviewed and are accepted. The terminal disclaimers have been recorded.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Ashok Janah, Esq. on August 16th, 2007 at ~3:00 pm EST.

The application has been amended as follows:

1. Amend claim 25 to depend from claim 1.
2. Amend claim 146 to depend from claim 133.
3. On line 2 of claims 28-29, 150, 172, 173, 194, and 195 replace the words "agents are" with the words "agent is".

REASONS FOR ALLOWANCE

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The following is an examiner's statement of reasons for allowance: the pending claims of the instant application were found to be free of the art and the submission of terminal disclaimers as set forth above has overcome the outstanding obviousness-type double-patenting rejections of record. Specifically, the prior art of does not disclose or fairly suggest a respiratory dispersion for the pulmonary delivery of one or more bioactive agents comprising (1) a suspension medium comprising at least one propellant having dispersed therein (2) a plurality of perforated microstructures (i.e. porous microstructures), wherein the suspension medium permeates said perforated microstructures.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

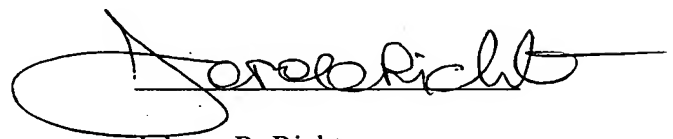
Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H. Alstrum-Acevedo whose telephone number is (571) 272-5548. The examiner can normally be reached on M-F, 9:00-6:30, with every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter can be reached on (571) 272-0646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James H. Alstrum-Acevedo
Patent Examiner
Technology Center 1600

A handwritten signature in black ink, appearing to read "Johann R. Richter", with a large, loopy initial "J" and a horizontal line extending from the end of the signature.

Johann R. Richter
Supervisory Patent Examiner
Technology Center 1600